

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KENNETH FORTUNE,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 04 - 377
)	
CARL HAMBERGER, Unit Manager;)	Judge Terrence F. McVerry
MARTIN L. DRAGOVICH,)	
Superintendent; THOMAS L.)	
JAMES, Chief Grievance)	
Coordinator; C.O. BASEMORE,)	
Guard; CAROL BAKER, Hearing)	
Examiner; C.O. LITCHARD, Guard;)	
C.O. WIRT, Sergeant; C.O. CRAIG,)	
Guard; C.O. HARMON, Sergeant;)	
ROBERT STEVENS, Unit Manager;)	
KAREN PATTERSON, Accountant;)	
JEAN W. SCOTT, Business)	
Manager; DONALD L. KECHNER,)	
Defendants.)	

MEMORANDUM ORDER

The above captioned case was initiated by the filing of a Motion to Proceed *In Forma Pauperis* (doc. no. 1) on March 11, 2004, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges on April 12, 2004.

The Magistrate Judge's Report and Recommendation filed on August 29, 2007 (doc. no. 74), recommended that Defendants' Partial Motion to Dismiss (doc. no. 68) be granted and that Plaintiff's claims be dismissed against Defendants Hamberger, Dragovich, James, Baker, Bitner, Stevens, Andrade, Folino, and Burk. Plaintiff filed

objections to the Report and Recommendation on September 18, 2007 (doc. no. 75).

After review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

AND NOW, this 21st day of September, 2007;

IT IS HEREBY ORDERED that Defendants' Partial Motion to Dismiss (doc. no. 68) is **GRANTED** and Plaintiff's claims against Defendants Hamberger, Dragovich, James, Baker, Bitner, Stevens, Andrade, Folino, and Burk are **DISMISSED**.

IT IS FURTHER ORDERED that the Report and Recommendation dated August 29, 2007, (doc. no. 74) of Magistrate Judge Lenihan is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court delete Defendants Hamberger, Dragovich, James, Baker, Bitner, Stevens, Andrade, Folino, and Burk from the caption in this action.

By the Court:

s/ Terrence F. McVerry
United States District Judge

cc: Lisa Pupo Lenihan
United States Magistrate Judge

Kenneth Fortune
AY-9297
SCI Greene
175 Progress Drive
Waynesburg, PA 15370